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Attorneys for Defendants LOWLIFE CORPORATION LIMITED (incorrectly sued as LOWLIFE CORPORATION, LTD); DALE MASTERS; and EBTM plc

UNITED STATES DISTRICT COURT OF CALIFORNIA  
 SOUTHERN DISTRICT

REALLY LIKEABLE PEOPLE, INC., a  
 Delaware corporation, LOSERKIDS, INC., a  
 California Corporation, MACBETH, INC., a  
 California corporation, MACBETH OPTICS,  
 LP, a California limited partnership, and  
 REALLY LIKEABLE PEOPLE II, INC.  
 (formerly ATTICUS CLOTHING, INC.), a  
 California corporation,

Plaintiffs,

vs.

LOWLIFE CORPORATION, LTD, an English  
 limited company, EVERYTHING BUT THE  
 MUSIC, plc, an English corporation, DALE  
 MASTERS, an individual, and DOES 1 through  
 25, inclusive,

Defendants.

CASE NO. 07 CV 2405 L CAB

REPLY DECLARATION OF RICHARD  
 BREEDEN IN SUPPORT OF MOTION TO  
 DISMISS PURSUANT TO RULE 12(b)(2)

Date: March 3, 2008  
 Time: 10:30 a.m.  
 Courtroom: 14  
 Judge: Hon. M. James Lorenz

I, Richard Breeden, declare:

1. I am the Chief Executive of EBTM plc ("EBTM"), a company incorporated under the laws of the United Kingdom. If called upon, I could testify competently to the matters stated herein.

1           2.       EBTM is an online retail business that sells music inspired fashion in the United  
2 Kingdom and Europe. EBTM began doing business in 2005.

3           3.       As an online retailer, EBTM sells clothing manufactured by a number of companies,  
4 generally as a result of an agreement with a distributor for the clothing company. As an example,  
5 EBTM has previously sold Macbeth shoes on its website as a result of an agreement between EBTM  
6 and Lowlife Corporation Limited ("Lowlife"), a UK company that had the UK distribution rights for  
7 Macbeth shoes until December 31, 2007. While Lowlife is no longer a distributor for Macbeth, Lowlife  
8 still owns unsold Macbeth inventory that EBTM is currently offering for sale on the EBTM site.

9           4.       The opposition papers filed by Plaintiffs claim that EBTM is selling clothing products  
10 from the following companies alleged to be California companies: Adeline Street, Adio, Alliance,  
11 Bench, DC Clothing, DC Shoes, Dekline Shoes, Draven, Eastpak USA, Fender, Hurley International  
12 LLC, Iron Fist, Junk Food, Level 27, Lost Property, Macbeth, Rockett, To Die For, Vans Clothing,  
13 Vans Shoes, Vestal Watch, Inc., and Vintage.

14           5.       I am informed and believe that Bench, Lost Property, and Vintage are UK companies. I  
15 am informed and believe that Iron Fist is a South African company.

16           6.       EBTM sells Adeline Street clothing due to an agreement that it has with the Adeline  
17 Street distributor for the UK, Italy, and Spain, Lowlife Corporation Limited ("Lowlife"). I am  
18 informed and believe that Lowlife became a distributor for Adeline Street in approximately July 2007.  
19 Attached to this declaration as Exhibit 1 is a true and accurate copy of the current "Contact Us" web  
20 page from the Adeline Street website ([www.adelinestreet.com](http://www.adelinestreet.com)) that lists Lowlife as a distributor for  
21 Adeline Street.

22           7.       EBTM sells Rockett clothing due to an agreement that it has with the Rockett distributor  
23 in the UK, Lowlife.

24 ///

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26 ///

27 ///



1           8.       As to all of the other clothing companies listed in plaintiffs' opposition,<sup>1</sup> including the  
2 non-California companies such as Bench, Lost Property, Vintage, and Iron Fist, EBTM sells the  
3 clothing as a result of agreements that EBTM has with distributors for those clothing companies. I am  
4 informed and believe that all of these distributors are companies located either in the United Kingdom  
5 or Europe.

6           9.       In approximately October 2007, EBTM negotiated an agreement with Music Today for  
7 Music Today to run the US webstore for Atticus Clothing at [www.atticusclothing.com](http://www.atticusclothing.com). I traveled to  
8 Virginia to meet with Music Today officers and negotiate the agreement. I am informed and believe  
9 that Music Today is a company located in Crozet, Virginia. Attached to this declaration as Exhibit 2 is  
10 a true and accurate copy of the Contact page from the Music Today website ([www.musictoday.com](http://www.musictoday.com)).  
11 EBTM announced the agreement with Music Today in approximately November 2007.

12           10.       I understand that in late May, Lowlife signed a number of agreements with Plaintiffs,  
13 including an agreement related to the operation of the [www.loserkids.uk.com](http://www.loserkids.uk.com) web site through  
14 December 31, 2007 (Loserkids.uk.com Wind-down Agreement). In June of 2007, Dale Masters and I  
15 met with Andy Murray of Trinity Street at the Trinity Street office in London. I understand that Trinity  
16 Street had been operating the [www.loserkids.uk.com](http://www.loserkids.uk.com) website for Lowlife since approximately 2005. At  
17 the time of the June 2007 meeting with Trinity Street, EBTM and Lowlife were interested in having  
18 EBTM operate the [www.loserkids.uk.com](http://www.loserkids.uk.com) web site in place of Trinity Street, and believed that  
19 Loserkids would agree to allow EBTM to operate the site under the Loserkids.uk.com Wind-down  
20 Agreement. It later turned out that Loserkids would not agree to allow EBTM to operate the website. I  
21 am informed and believe that no one from Lowlife ever asked or instructed Trinity Street to turn off  
22 the [www.loserkids.uk.com](http://www.loserkids.uk.com) website. I am informed and believe that Trinity Street unilaterally turned  
23

24  
25           1.       Adio, Alliance, Bench, DC Clothing, DC Shoes, Dekline Shoes, Draven, Eastpak USA,  
26 Fender, Hurley International LLC, Iron Fist, Junk Food, Level 27, Lost Property, Macbeth, To Die For,  
27 Vans Clothing, Vans Shoes, Vestal Watch, Inc., and Vintage.

1 off the web site and did so for approximately two days in early August 2007. I am informed and  
2 believe that Trinity Street turned the website back on in response to the request by Dale Masters of  
3 Lowlife that they do so.

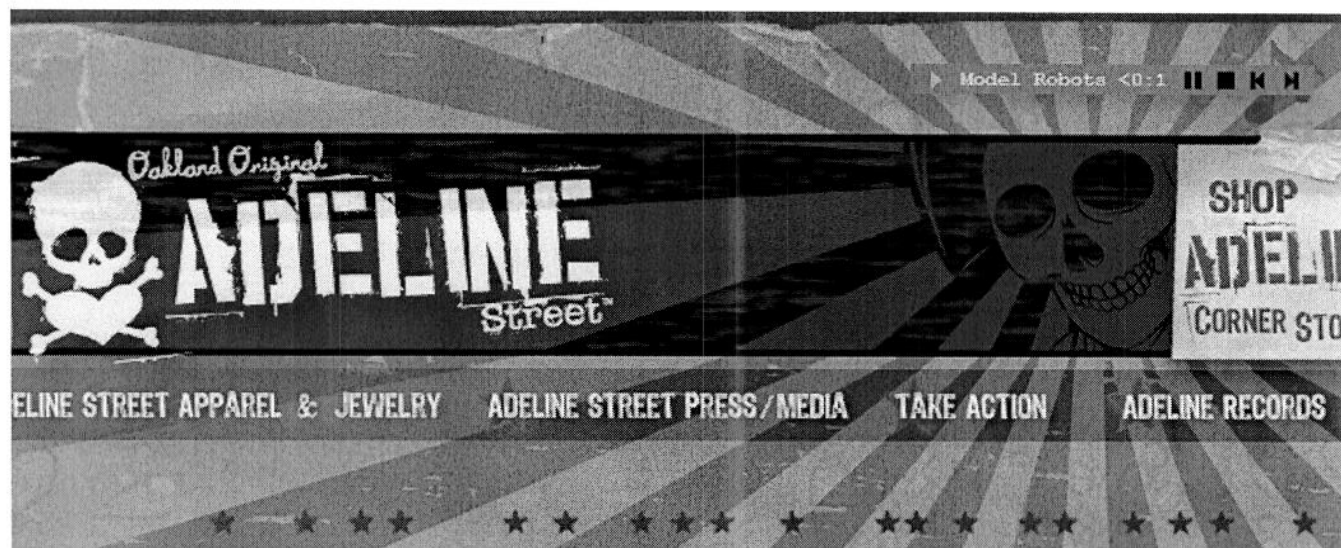
4 11. I am informed and believe that EBTM lacks sufficient minimum contacts with  
5 California for this court to assert personal jurisdiction over EBTM. I respectfully request that this  
6 Court grant the motion to dismiss EBTM under Rule 12(b)(2).

7 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
8 true and correct. Executed this 25th day of February, 2008, in London, England.

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11 RICHARD BREEDON  
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**All Record Label or Music related correspondence and advertising:**

\* Sorry, we do not accept any demos submission  
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**WHERE DO WE GO FROM HERE?**



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